

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

TIMOTHY M. NASH,)	CASE NO. 1:08 CV 324
)	
Petitioner,)	JUDGE KATHLEEN M. O'MALLEY
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
JACQUELINE THOMAS,)	<u>AND ORDER</u>
)	
Respondent.)	

On February 11, 2008, petitioner pro se Timothy Nash filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Nash is incarcerated at the North Coast Correctional Facility, having been convicted of possession of drugs in June 2007. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is evident on the face of the petition that Nash has yet to exhaust his state court remedies. He indicates a postjudgment motion is pending in the trial court, and there is no

suggestion that he has yet filed a direct appeal.¹ The petition is thus premature.

Accordingly, this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/ Kathleen M. O'Malley
KATHLEEN M. O'MALLEY
UNITED STATES DISTRICT JUDGE

DATED: April 3, 2008

¹ Nash's state habeas and mandamus actions are facially insufficient for purposes of exhaustion.